

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6478

BILL NUMBER: HB 1001

DATE PREPARED: Mar 27, 2002

BILL AMENDED: Mar 14, 2002

SUBJECT: Antiterrorism Measures.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: (CCR Amended) This bill has the following provisions:

(A) It establishes the Counterterrorism and Security Council.

(B) It provides that \$1.25 of the service charge established by administrative rules before January 1, 2002, for certain BMV transactions is to be used in paying the costs of an integrated wireless public safety communications system until July 1, 2019, and authorizes the State Office Building Commission to issue bonds to finance construction of the system.

(C) It provides for a portion of the \$1.25 service charge to be used for the State Police Crime Laboratory backlog.

(D) It appropriates from the State License Branch Fund to the Integrated Public Safety Communications Fund an amount equal to \$1.25 multiplied by the number of relevant BMV transactions occurring after December 31, 2001, and before July 1, 2002.

(E) It establishes new restrictions concerning the issuance of commercial driver's licenses and hazardous materials endorsements.

(F) It authorizes the State Police (instead of the Department of Administration) to provide security for state property.

(G) It authorizes the superintendent of State Police to assign a special police employee to serve on a riverboat.

(H) It requires the State Emergency Management Agency to develop a statewide mutual aid program and a statewide mutual aid agreement.

(I) It provides that a student who brings a destructive device to school or possesses a destructive device on school property must be expelled for at least one calendar year.

(J) It provides that a vehicle, money, or other assets may be seized if used in the commission of certain offenses as part of an act of terrorism.

(K) It establishes various requirements and criminal offenses concerning certain regulated explosives or devices.

(L) It establishes or enhances various criminal penalties for disorderly conduct on airport premises, use of

the identity of another person with the intent to commit terrorism or to obtain a weapon of mass destruction, money laundering with the intent to further terrorism, possession of a weapon of mass destruction with the intent to carry out terrorism, dissemination of a substance with the intent to cause a person to believe that the substance is a weapon of mass destruction, or interruption or impairment of work conducted in a food processing facility.

(M) It repeals: (1) the definition of regulated explosive; (2) the financial responsibility requirements for a regulated explosive manufacturer; (3) the current statute defining the crime of selling, manufacturing, purchasing, or possessing certain bombs and explosives; and (4) a statute that authorizes the commissioner of the department of administration to issue warrants for the recovery of unlawfully possessed state property.

Effective Date: (Amended) Upon Passage; July 1, 2002.

Explanation of State Expenditures: (Revised) *Communications Infrastructure:* The estimated one time costs of communications infrastructure system would be financed through debt payments. These costs and the annual debt payments are shown in the following table:

Estimated Costs of Network Infrastructure (In Millions)					
	<u>Total Cost</u>	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
Radio & Data Backbone	\$74.33				
Tower Site Construction	<u>\$19.57</u>				
Total One Time Cost:	\$93.90				
less: Identified Existing Funding	(\$18.73)				
Net Infrastructure Cost	<u>\$75.17</u>				
Annual Debt Service		\$2.00	\$7.98	\$7.98	\$7.98

The annual estimated costs associated with this project is shown below:

Estimated Annual Operating Costs for Network Infrastructure(In Millions):				
	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
Tower Leasing	\$0.06	\$0.30	\$0.50	\$0.62
Backbone	\$0.10	\$0.56	\$1.01	\$1.46
Maintenance	-	\$0.27	\$1.38	\$2.52
State Police Equipment	<u>\$0.90</u>	<u>\$3.54</u>	<u>\$3.27</u>	<u>\$3.63</u>
Total Operating Costs:	<u>\$1.06</u>	<u>\$4.67</u>	<u>\$6.16</u>	<u>\$8.23</u>

Indiana State Police Laboratory Backlog: ISP has experienced backlog problems in its labs. This bill addresses this problem by allowing for a portion of the fee increase for transactions from the Bureau of Motor Vehicles to be used to fund an additional shift in ISP laboratories. The added expenditures available will be determined by the State Budget Agency to enable the State Police Crime Laboratory to address any backlog of cases to be processed by the laboratory.

Currently, the following amounts are estimated to be needed by the State Police Laboratory over the next four years:

Estimated Additional Expenditures for State Police Crime Laboratory (In Millions)				
	<u>FY 2003</u>	<u>FY 2004</u>	<u>FY 2005</u>	<u>FY 2006</u>
Expenditures	<u>\$1.00</u>	<u>\$2.62</u>	<u>\$4.22</u>	<u>\$4.39</u>

Counterterrorism and Security Council: This council is composed of 15 members. The council is charged with developing a strategy to enhance the state's capacity to prevent and respond to terrorism; develop and periodically review a counterterrorism plan; develop a counterterrorism curriculum for basic police training and advanced in-service training for veteran law enforcement officers; and develop affiliates in each county for coordination and communications purposes. The Council may have an executive director and staff which would be paid from appropriations made by the General Assembly.

State Police Authority: The bill also authorizes the State Police, instead of the Department of Administration, to provide security for state property, including the State Capitol, the State Office Building, State Library, and other property. The State Police are also authorized by the bill to assign these individuals duties as gaming agents under an agreement with the Indiana Gaming Commission.

New Criminal Penalties: The following penalties would be added to the criminal code:

<u>New Offense</u>	<u>Felony Category</u>
Destructive device to definition of arson	C and D
Damage to food processing facility	D
Terroristic deception	C
False reporting	D
Disorderly conduct in an airport	D
Money laundering offenses	C and B
Terroristic mischief	C and B

The following table shows the minimum sentence, presumptive sentence, and the maximum sentence that an offender can receive under current law.

Felony Class	Minimum	Presumptive	Maximum
Murder	45 years	55 years	65 years
A	20 years	30 years	50 years
B	6 years	10 years	20 years
C	2 years	4 years	8 years
D	six months	1.5 years	3 years

The average expenditure to house an adult offender was \$22,131 in FY 2000. Individual facility expenditures ranged from \$16,442 to \$40,312. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner.

Interim Study Committee on Terrorism: An interim committee would study terrorism issues. The number of members on the committee are not specified in the bill. During the 2002 interim, the policies governing study committees adopted by the Legislative Council. Legislative Council Resolution 01-3 established the budgets

of \$9,000. Assuming the Legislative Council continues with this policy, interim study committees will be allocated \$9,000 for the 2003 interim. This also assumes the Committee will have fewer than 16 members. Committees with 16 or more members are allocated \$18,500.

Explanation of State Revenues: (Revised) *Service Charges:* Based on reports from BMV from FY 1994 through 2001, the additional revenues that would be transferred from the State License Branch Fund to the Integrated Public Safety Communications Fund are estimated as follows:

	FY 2003	FY 2004	FY 2005	FY 2006
Number of transactions	11,321,345	11,563,870	11,811,589	12,064,616
Service charge	<u>\$1.25</u>	<u>\$1.25</u>	<u>\$1.25</u>	<u>\$1.25</u>
Revenue transferred	\$14,151,682	\$14,454,837	\$14,764,487	\$15,080,769

After July 1, 2019, the funds shall be deposited in the State License Branch Fund.

Summary of Financing Arrangements for Communications System Infrastructure and State Police Laboratory Backlog: The following table shows expenditures for the two programs and the accumulative revenue balance remaining between FY 2003 and FY 2006:

	FY 2003	FY 2004	FY 2005	FY 2006
Total Revenues	\$14.15	\$14.45	\$14.76	\$15.08
Annual Debt Service	\$2.00	\$7.98	\$7.98	\$7.98
Total Operating Costs:	\$1.06	\$4.67	\$6.16	\$8.23
State Police Lab Backlog	<u>\$1.00</u>	<u>\$2.62</u>	<u>\$4.22</u>	<u>\$4.39</u>
Total Expenditures	<u>\$4.10</u>	<u>\$15.27</u>	<u>\$18.36</u>	<u>\$20.60</u>
Remaining Balance	<u>\$10.05</u>	<u>\$9.23</u>	<u>\$5.63</u>	<u>\$0.11</u>

Commercial Driver's License Provisions: The passage of the required examinations and skills tests may affect the number of CDLs issued, but more likely will affect the third-party testers who provide the skills tests for the CDL by potentially reducing the number of tests provided each year.

The current fee for a CDL is \$30, with \$15 deposited into the Motor Vehicle Highway Account, \$14.50 deposited into the State License Branch Fund (which supports the 168 State License Branches throughout the state), and \$0.50 deposited into the BMV Technology Fund (which is used to acquire new technology for the BMV). The current fee for an endorsement is \$20, with \$10 deposited into the Motor Vehicle Highway Account, \$9.50 deposited into the State License Branch Fund, and \$0.50 deposited into the BMV Technology Fund.

The skills tests required for the CDL are conducted by third-party testers. The fee for the skills test cannot exceed \$100, with the fee retained by the person or persons providing the test. In addition, there is a \$25 fee to rent the equipment from the site of the test. Currently, there are 18 contracted third-party testers throughout the state providing 20,000 skills tests annually.

With regard to the hazardous materials endorsement for the CDL, the American Association of Motor Vehicle Administrators (AAMVA) reports that two states, Illinois and Pennsylvania, are not issuing CDLs with hazardous materials endorsements. Also, New York, Louisiana, and Iowa are waiting for the federal

government to publish rules on how the federal law (U.S. Patriot Act of 2001) is to be implemented. This law requires a federal background check.

Bonding Authority: The General Assembly authorizes the State Office Building Commission to provide the communications system infrastructure to borrow money or issue and sell bonds.

Asset Seizures: The funds that result from the sale of the seized property would be deposited in the general fund of a local unit of government if the assets were seized by local law enforcement. Otherwise, seized assets would be disbursed as provided under current law.

There are no data to indicate how much property or the value of the property that may be seized under the bill. If assets would have been available for seizure under current law, funds may have been distributed to the state General Fund, local general funds, and the Common School Fund. To the extent that the funds would be distributed only to the local unit's general fund, revenues to the state General Fund and the Common School Fund would be reduced.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for **any** felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: (Revised) *Added Crimes:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

Expulsion for bringing a destructive device to school or possessing a destructive device on school property. This provision would broaden the number of offenses for which students could be expelled from school.

Background - The following steps represent the expulsion process of a student who is expelled at the school corporation level under current Indiana law:

- 1) The student is suspended by the principal for not more than 10 days; 2) the principal affords the student "due process" by providing a written or oral statement outlining the charges against the student, by presenting a summary of evidence against the student, and by allowing the student to explain the student's conduct; 3) the principal notifies the parent of the suspended student; 4) the superintendent conducts an expulsion meeting via an expulsion examiner; 5) the student is expelled by the expulsion examiner; and 6) the superintendent adopts the decision to expel the student.

After the superintendent adopts the decision to expel the student, the parent of the expelled student is allowed

to appeal the decision to the school corporation, and then to the local court system. (Under normal expulsion circumstances, such as student misconduct or disobedience, juvenile courts are not typically involved.)

Expulsion and Suspension Data: For the 2000-2001 school year, Indiana's average daily membership (ADM) consisted of 954,487 students, and public school enrollment totaled 988,691. Approximately 1,960 public schools were in operation within Indiana's 294 school corporations during that time.

The following table illustrates the number of suspensions and expulsions from school years 1996 through 2000. Data for 2001 are not yet complete.

Suspensions and Expulsions for School Years 1996-2000		
<u>Year</u>	<u>Suspensions</u>	<u>Expulsions</u>
2000	293,934	7,313
1999	305,767	9,263
1998	302,593	10,229
1997	306,034	9,340
1996	227,326	8,982

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Kevin Lewis, American Association of Motor Vehicle Administrators (AAMVA), Indiana Sheriffs Association; Department of Correction; Phil Roberts, State Emergency Management Agency, (317) 232-3834; DOE ORACLE Data Tables.